

MINUTES FOR THE
ARIZONA BOARD OF BARBERS
JANUARY 30, 2006

Arthur Dean Knox presided and called the meeting to order at 10:30 a.m. Roll was called with all members present. Also present were Marc Harris, Assistant Attorney General, Sam LaBarbera, Executive Director, Sam Barcelona, Administrative Assistant and Mary Jane Jones, Secretary.

Present:	Arthur Dean Knox	Terry Lara
	Ross Pacheco	Michael Bogle
	Jackie Gill-Solares	

Arthur Dean Knox introduced our new Board member, Michael Bogle.

Jackie Gill-Solares moved to approve the minutes with corrections of December 19, 2005. Ross Pacheco seconded the motion; motion passed unanimously.

Terry Lara moved to approve the minutes for the Executive Session of September 12, 2005. Ross Pacheco seconded the motion. Ms. Gill-Solares recused herself. Motion passed unanimously.

Mr. Knox stepped from the Chair for the purposes of election of officers. Sam LaBarbera assumed the chair. Mr. Pacheco nominated Mr. Knox for Chairman. Ms. Gill-Solares seconded the motion; motion passed unanimously.

Mr. Knox then assumed the Chair.

Mr. Gill-Solares nominated Terry Lara for Co-Chairman. Mr. Pacheco seconded the motion; motion passed unanimously.

Report on Inspection of Mariela German's shop (Establishment No. 1283-E). Sam LaBarbera reported on his inspection of this establishment where he found an unlicensed person practicing barbering. Mr. Knox asked if this shop had been written up before. Mr. LaBarbera said not for this reason. Ms. Gill-Solares moved to invite Mariela German for an informal interview. Ms. Lara seconded the motion; motion passed unanimously.

Status Update Hearing -- Complaint No. 2005-015 Samson Davis, Sr. Samson Davis was not present or represented by counsel. Mr. LaBarbera reported that Mr. Davis has signed and returned the Consent Agreement and Mr. Davis said he would like to reopen the school when he was able to secure the bond. The Board directed staff to check that all signs regarding a school were taken down at this location.

Informal Interview -- Complaint No. 2006-001 George Villalpando. Mr. LaBarbera reported that the Consent Agreement has been signed. Ms. Gill-Solares asked if the shop was clean and Sam Barcelona said the shop was very clean and that Ross Cooley had signed the Consent Agreement.

Consideration of a special Board meeting. The following topics were to be placed on the next Agenda.

1. Budget
2. Fines – the policy in setting the fines
3. Hiring of personnel and procedures
4. Responsibility of Board members
5. Clarification of delegations to Staff
6. Review of laws and rules

Discussion of the bond required for schools. Board member Gill-Solares asked A.A.G. Marc Harris whether the bond was for the benefit of the students or the State and was it the responsibility of the Board to apply for that bond.

In response, Mr. Harris explained that pursuant to A.R.S. 32-324(C)(6), a school licensed by the Board must maintain in force a bond in the amount of \$25,000. According to the statute, the bond is for the benefit of and subject to the claims of the State. The State, which in this case is the Board, may make a claim against the bond when a licensed school fails to meet the requirements of the Board's statutes and regulations with respect to operating a school, including but not limited to affording its students the full course of instruction required under the Board's statutes and rules. The statute further provides that that if a licensed school does not operate according to the Board's requirements, the school's students are entitled to tuition refund of the monies they paid. The tuition refund would come from the bond.

Mr. Harris went on to explain that before the Board can make a claim against the bond for tuition refunds, it must first afford the licensee due process. Due process is generally defined as notice and a meaningful opportunity to be heard. Applying this requirement to the Board's regulatory authority, Mr. Harris explained that if the Board received a complaint alleging that a licensed school was not operating in accordance with the Board's laws and regulations, it has a responsibility to investigate the allegations of unprofessional conduct. Again, in order for the Board to be able to make a claim against the bond on behalf of the students, the Board must first establish and find that the school was not operating in accordance with its requirements and that the students did not receive the full course of instruction. In response to a question by Board member Bogle, Mr. Harris explained that it would be during the course of the Board's investigation that it would attempt to ascertain the amount of tuition the students paid to the school. Mr. Harris explained that the establishment of the amount of tuition paid by the students would be a prerequisite to the Board making a claim against the bond.

Mr. Harris further explained that if after completing its investigation, the Board believes that the allegations are or may be true, the Board should then consider issuing a complaint and referring the matter to a formal administrative hearing. Among other things, the complaint must allege the amount of tuition the students paid the school and the specific violations. If after a hearing an order is issued to that effect, then the Board would be able to make a claim against the bond for the amount of tuition the students paid. Upon receipt of this money, the Board would then refund the money to the students that they paid to the school. In the event that the bonding company refused to pay, the Board would then have the option of referring the matter to the Attorney General's office for collections.

Ms. Gill-Solares asked what would happen if individual students made claims on the bond on their own

and depleted the bond so that there was nothing left for other students. Mr. Harris explained that the Board does not represent the students and that they would be free to pursue their own remedies against the school. Mr. Harris further explained that it would be unfair for a student to participate in any claim that the Board would make against a bond if that student had previously received a refund of the tuition they paid from the school bond.

Mr. Bogle said he understood the bond was similar to a construction bond in that it is to ensure completion of contract in terms of money paid and education promised.

Ms. Gill-Solares asked why does the Board have a bond if they do not pursue it. Mr. Harris said that it is the Board's responsibility to ensure that all licensees comply with the laws and regulations related to the operation of a school of barbering.

Mr. Bogle asked if the Board is supposed to advise students to take action against the bond separately. Mr. Harris said that it is not the Board's responsibility to provide legal advice to students. Rather it is the Board's responsibility to enforce its statutes and regulations. Board member Knox and Ms. Gill-Solares felt each school should teach the students about their responsibilities.

The Board felt that the Staff should get a copy of the current bond for each school.

Mr. Harris left the meeting after the Board concluded its discussion of this agenda item. .

General Agency Operations. The Board examined the duties of each Staff member and discussed them with the person. Mr. LaBarbera pointed out that all of the Staff is able to help each other and are cross-trained to a large extent. There was a discussion about salaries for Staff and additional staff. The consensus of the Board was that salaries should be high enough to ensure low turnover. The Board can hire one more person now and the Board will be asking for additional staff positions with the next budget submission. Mary Jane's position needs to be reevaluated and raised, along with a pay raise. Her position is uncovered and will have to be processed by the Human Resource Department. The other positions are uncovered and changes can be determined by the Board to a large extent but must still be within the range for the position and according to the personnel rules.

Comments from the Public. John Martinez introduced himself.

The next meeting will be determined later.

Mr. Pacheco moved to adjourn. Ms. Gill-Solares seconded the motion; motion passed unanimously.

Sincerely,

January 30, 2006

Arthur Dean Knox, Chairman

Mary Jane Jones, Secretary